



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MAHN
ATTORNEY GENERAL

Honorable King Fike
County Attorney
Hartley County
Dalhart, Texas

Dear Sir:

Opinion No. 9-1156

Re: Would a sheriff on a fee basis be entitled to charge as expenses of his office the purchase price of an automobile used by him as sheriff?

We are in receipt of your opinion request bearing date of July 18, 1939, wherein you propound the following questions:

"1. Would a sheriff who is being paid on a fee basis in a county with a population such as Hartley County be entitled to charge up as expenses of his office the purchase price of an automobile used by him as such sheriff?

"2. Would he be entitled to charge up as expenses of his office the depreciation of the automobile used by him as such sheriff?

"3. Would he be entitled to charge up as expenses of his office car expenses?"

Article 3899 of the Revised Civil Statutes of Texas, as amended, bearing the heading "Expense Accounts", provides as follows:

"At the close of each month of his tenure of office, each officer named herein who is compensated on a fee basis shall make as part of the report now required by

law, an itemized and sworn statement of all the actual and necessary expenses incurred by him in the conduct of his office . . . The amount of such expenses, together with the amount of salaries paid to assistants, deputies and clerks shall be paid out of the fees earned by such officer. The Commissioners' Court of the county of the sheriff's residence may, upon the written and sworn application of the sheriff stating the necessity therefor, allow one or more automobiles to be purchased by the sheriff in the discharge of his official duties, which, if purchased by the county shall be bought in the manner prescribed by law for the purchase of supplies and paid for out of the general fund of the county, and they shall be and remain the property of the county. The expense of maintenance, depreciation and operation of such automobiles as may be allowed, whether purchased by the county or owned by the sheriff or his deputies personally, shall be paid for by the sheriff and the amount thereof shall be reported by the sheriff, on the report above mentioned, in the same manner as herein provided for other expenses."

In answer to your question No. 1, you may be advised that it is the opinion of this Department that the Commissioners' Court of a county, upon the written and sworn application of the sheriff stating the necessity therefor, may allow one or more automobiles to be purchased by the sheriff, to be used in the discharge of his official duties, which, if purchased by the county, shall be paid for out of the general fund and shall remain the property of the county. The sheriff may, of course, purchase an automobile out of his own personal funds, to be used in the discharge of his official duties; but in no instance would the sheriff be permitted to purchase a personal automobile and to charge the purchase price thereof as expenses of his office.

In answer to your question No. 2, we wish to advise that it is our opinion that the sheriff would be en-

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titled to charge up as expense of his office, the expense of depreciation upon an automobile used by him in the discharge of his official duties, whether purchased by the county or owned by the sheriff or his deputies personally.

In answering your question No. 3, you may be advised that it is our opinion that the sheriff would be entitled to charge up as expense of his office necessary automobile expenses incurred by the sheriff in the discharge of his official duties, whether said automobile was purchased by the county or owned by the sheriff or his deputies personally.

It is our opinion that in either event the sheriff of the county would not be entitled to any allowance for maintenance, depreciation or operation of such automobile, unless he had complied with the strict wording of the statute as to the making of a written and sworn application stating the necessity therefor, with a subsequent action on the part of the Commissioners' Court, acknowledging the necessity for such expenditure, and by special order directing and allowing such expenditure to be made. It also follows that no purchase of an automobile by a county could be made unless there had first been a strict compliance with the provisions made therefor in the statute.

Trusting that this answers your questions, as propounded, we remain

Yours very truly

ATTORNEY GENERAL OF TEXAS

(Signed) Edgar Cale
Edgar Cale
Assistant

APPROVED: SEPT. 18, 1939
(Signed) Gerald C. Mann
ATTORNEY GENERAL OF TEXAS

EC:FG

APPROVED:
Opinion Committee
By. R. W. F.
Chairman